

### **REMARKS**

The Examiner is thanked for the performance of a thorough search and for providing a response to Applicant's communication filed on February 21, 2008. By this amendment, Claims 1 and 39 are amended and Claims 20-30 are canceled. However, cancellation of claims is in no way an admission by the Applicant that the cited art teaches or suggests the subject matter of the canceled claims and the Applicant expressly reserves the right to pursue the subject matter of any canceled claim during the pendency of this application. No claims have been added or withdrawn. No new matter has been added. Therefore, Claims 1-11 and 39-49 are pending in the application.

Each issued raised in the Office Action mailed May 12, 2008 ("Office Action") is addressed hereinafter.

### **CLAIM REJECTIONS – 35 U.S.C. § 112, FIRST PARAGRAPH**

Claims 1 and 39 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. These rejections are respectfully traversed.

With respect to Claims 1 and 39, the Office Action contends that there is no written description for the following claim limitation that was added by Applicant's amendment filed October 16, 2007:

wherein said input to said timeline component is **obtained at a time in which no selection overlay exists** on either an area of said timeline component or an area of said waveform component (emphasis added)

Applicants disagree with the Office Action's contention. As discussed in Applicant's communication filed February 21, 2008, the above limitation is supported at least by figure 5 and the discussion in paragraph 54 of the specification. Specifically, figure 5 shows an interface

configured to implement an embodiment of the present invention wherein selection overlay 502 is generated in response to the user utilizing a pointing device to indicate the start and end points associated with the selection overlay. In the embodiment, the user indicates the start and end points by directing the pointing device to a specific region or regions of timeline component 306.

Paragraph 54 refers to “generat[ing] selection overlay 502” which reasonably conveys to a person of ordinary skill in the art that selection overlay 502 depicted in figure 5 is brought into existence by obtaining input “at a time in which no selection overlay exists”. Further, figure 5 shows only one selection overlay generated in response to obtaining input and does not depict any selection overlay that would have been in existence prior to or at the time input is obtained. Thus, figure 5 and paragraph 54 reasonably convey to a skilled artisan that selection overlay 502 may be generated in response to obtaining input “at a time in which no selection overlay exists”.

The Office Action responds to the above argument by stating that the above limitation is not "specifically taught" by figure 5 and paragraph 54 of the specification. *Office Action*, p. 3. Applicant notes that express disclosure in the specification is not required for newly added claim limitations and such limitations may be supported through implicit or inherent disclosure. MPEP § 2163.I.B. Nevertheless, to advance prosecution, Claims 1 and 39 are amended herein to no longer recite the above limitation that is the basis of the rejection under 35 U.S.C. § 112, first paragraph.

Claim 1 as amended recites, in part:

obtaining input to said timeline component where said input identifies a first time point and a second time point of said set of time points, and where the first time point and the second time point are identified by a user utilizing an input device to select, within said timeline component, the first time point and the second time point, **wherein said input includes selection of the first time point and dragging from the first time point to the second time point;**

**generating an initial selection overlay comprising an area of said timeline component and said waveform component that starts at said first time point and ends at said second time point;** (emphases added)

The amendments to Claim 1 herein are fully supported in the specification at least by figure 5 and paragraph 54. Specifically, paragraph 54 states with respect to generating selection overlay 502 of figure 5: "[i]f, for example, the user wants to start a selection at region 500A and end the selection at region 500B, the user could instruct the system to generate selection overlay 502 between these two regions by moving a pointing device to region 500A, selecting that region, and then dragging the pointing device to region 500B, ending the selection there." The amendments to Claim 39 are similar to those of Claim 1 and are supported at least by the same portion of the specification. Therefore, removal of the rejection of Claims 1 and 39 under 35 U.S.C. § 112, first paragraph is respectfully requested.

#### CLAIM REJECTIONS – 35 U.S.C. § 102

Claims 1-10 and 39-48 stand rejected under 35 U.S.C. § 102(a) as allegedly anticipated by Digidesign, Pro Tools Reference Guide Version 5.3 for HD System on Macintosh or Windows/Version 5.1.1 for MIX or LE Systems on Macintosh or Windows, 2002 (hereinafter "*Pro Tools*"). These rejections are respectfully traversed.

#### CLAIMS 1, 39

Claim 1 features, among other things:

obtaining input to said timeline component where said input identifies a first time point and a second time point of said set of time points, and where the first time point and the second time point are identified by a user utilizing an input device to select, within said timeline component, the first time point and the second time

point, **wherein said input includes selection of the first time point and dragging from the first time point to the second time point; generating an initial selection overlay comprising an area of said timeline component and said waveform component that starts at said first time point and ends at said second time point;** (emphases added)

Thus, the initial selection overlay featured in Claim 1 is generated by selection of a first time point within the timeline component and dragging from the first time point to the second time point. Notably, the generated selection overlay **starts at** the selected first time point and **ends at** the selected second time point. The timeline based approach of Claim 1 for generating an initial selection overlay enables the user, among other things, to more precisely select areas of an audio file. Such an approach is not described in *Pro Tools*.

The Office Action contends that the approach of Claim 1 for obtaining input and generating the featured "initial selection overlay" is described on pages 200, 209-210, and 215 of *Pro Tools*. The disclosure on each of those pages is addressed in turn and for each page it is shown why the disclosure does not satisfy the features of Claim 1.

Regarding p. 200 of *Pro Tools*, instructions for selecting track material are described. Specifically, step 1 under the section titled "To select a portion of a region" states "[w]ith the Selector, drag **within the region** (left or right) to select the material" (emphasis added). The "region" to which the passage refers is the region that depicts the audio track, not the timeline. Thus, *Pro Tools* describes generating a selection overlay by selecting a first point within the track region and dragging to a second point within the track region. In contrast, Claim 1 expressly specifies that the selection of the first point and the second point must be within the timeline component. *Pro Tools* clearly distinguishes between selections within the track region and selections within the timeline. Indeed, *Pro Tools* has separate sections describing selections within the track region and the timeline (Compare *Pro Tools*, "Selecting Track Material" on p.

200 with "Timeline Selections" on p. 209). Page 200 of *Pro Tools* describing selection of track material simply does not disclose selecting track material by selecting "within the timeline component" as featured in Claim 1. Instead, page 200 of *Pro Tools* shows selection of track material by dragging "within the region" which is not the same thing as dragging within the timeline. Therefore, "Selecting Track Material" as described on page 200 of *Pro Tools* does not anticipate Claim 1.

Page 209 of *Pro Tools* describes making selections within the timeline. However, the "Timeline Selections" described in *Pro Tools* cannot be used to generate the selection overlay featured in Claim 1. *Pro Tools* describes two modes in which timeline selections can be made; one where edit and timeline selections are "linked" and one where edit and timeline selections are "unlinked." In either case, whether in "linked" or "unlinked" mode, a *Pro Tools* user cannot generate the initial selection overlay featured in Claim 1 by making a timeline selection.

Dragging within the timeline of *Pro Tools*, whether linked or unlinked from the edit selections, can be used to move one of the boundaries of a selection overlay to move the boundary to the second time point (i.e., the point at which the boundary is dragged to). However, dragging within the *Pro Tools*'s timeline cannot be used to generate a selection overlay that starts at the first selected time point and ends at the second selected time point. Claim 1 expressly requires that the generated selection overlay "start at said first time point" and "end at said second time point" where the first time point and the second time point are selected by dragging, "within the timeline component," from "the first time point to the second time point." This express requirement of Claim 1 is not shown in *Pro Tools*. *Pro Tools* shows "dragging a playback marker" on page 210. However, the dragging action shown on page 210 can be used to set the start of a selection overlay or the end of the overlay, only at the second selection point (i.e., the cursor location at the end of the drag operation). In contrast, the input featured in Claim

1 results in generation of a selection overlay that starts at the first time point and ends at the second time point. Therefore, setting a timeline selection by dragging a playback marker as described on p. 209 and 210 of *Pro Tools* does not anticipate Claim 1.

Further, the fact that edit selections may be mirrored in the timeline of *Pro Tools* does not mean that *Pro Tools* anticipates Claim 1. An edit selection of *Pro Tools* is the type of selection described on page 200 of *Pro Tools* (i.e., the type of selection described above made by dragging the selector within the track region, not the timeline). *Pro Tools* describes that when edit selections and timeline selections are "linked" that the action of dragging the selector within the track region is mirrored in the timeline. However, Claim 1 expressly requires that the featured selection overlay be generated by dragging within the timeline. Thus, *Pro Tool's* description of edit selections that are mirrored in the timeline does not disclose the approach of Claim 1 for generating a selection overlay.

Since dragging within the timeline of *Pro Tools* does not generate a selection overlay that starts at the first selection time point and ends at the second selected time point, the description of timeline selections on pages 209 and 210 of *Pro Tools* does not anticipate Claim 1.

Page 215 of *Pro Tools* describes how to separate a selection without affecting the original region. To separate a selection, first a selection is made in the original region. Specifically, step 1 states "[w]the Selector, drag to select them material for the new region or regions." Selecting track material is described on page 200 of *Pro Tools*. As discussed above, page 200 of *Pro Tools* describes selecting track material by dragging the selector within the track region, not the timeline. Thus, selecting material to separate from the original region is also accomplished by dragging the selector within the track region, not the timeline. Since an initial selection of track material in *Pro Tools* is not accomplished by dragging within the timeline, the description on page 215 of *Pro Tools* does not anticipate Claim 1.

The timeline-based approach of Claim 1 allows a user to more precisely select areas of an audio file by allowing the user to generate an initial selection overlay (i.e., an overlay that starts at the first selection point and ends at the second selection point) that comprises an area of a timeline component and a waveform component by using an input device to drag within the timeline component. Such an approach is **not** disclosed in *Pro Tools*. Therefore, Applicant's respectfully submit that Claim 1 is patentable over *Pro Tools*. Reconsideration and removal of the rejection of Claim 1 under 35 U.S.C. § 102 is respectfully requested.

Claim 39 recites features similar to those recited in Claim 1. Therefore, Claim 39 is patentable over *Pro Tools* for at least the same reasons given above with respect to Claim 1.

#### CLAIMS 5, 43

Claim 5, by virtue of its dependency on Claim 1, recites the features of Claim 1 discussed above. Therefore, Claim 5 is patentable over *Pro Tools* for at least the reasons given above with respect to Claim 1. Additionally, Claim 5 recites additional features that independently render it patentable over *Pro Tools*.

Claim 5 recites "generating a visual representation on said timeline component and said waveform component upon receiving said input to said timeline component." The Office Action contends that this feature is satisfied by the figure on page 215 of *Pro Tools* labeled "Dragging to another track with Separation Grabber". However, as discussed above, the two arrows shown in the figure that indicate the start and end of the highlighted waveform were not set by dragging the selector of *Pro Tools* within the timeline from the time point at the down arrow to the time point at the up arrow. Rather, they were set by either dragging the selector within the track region (p. 200) or by dragging a playback marker (p. 209-210). As discussed above, neither of these two dragging actions described in *Pro Tools* are used to generate the selection overlay as it

is generated in Claim 1. Therefore, Claim 5 recites additional limitations that independently render it patentable over *Pro Tools*.

Claim 43 contains features similar to Claim 5 and therefore also recites additional limitations that independent render it patentable over *Pro Tools*.

#### REMAINING CLAIMS

The pending claims not discussed so far are dependant claims that depend on an independent claim that is discussed above. Because each dependant claim includes the features of claims upon which they depend, the dependant claims are patentable for at least those reasons the claims upon which the dependant claims depend are patentable. Removal of the rejections with respect to the dependant claims and allowance of the dependant claims is respectfully requested. In addition, the dependent claims introduce additional features that independently render them patentable. Due to the fundamental differences already identified, a separate discussion of those features is not included at this time.



**CONCLUSION**

For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Please charge any shortages or credit any overages to Deposit Account No. 50-1302.

Respectfully submitted,

Hickman Palermo Truong & Becker LLP

Date: August 12, 2008

/AdamCStone#60531/  
Adam Christopher Stone  
Reg. No. 60,531

2055 Gateway Place, Suite 550  
San Jose, California 95110-1089  
Telephone No.: (408) 414-1080 ext. 231  
Facsimile No.: (408) 414-1076